UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,224	08/02/2000	Alan P. Stevens	GB9-2000-0047-US1	9117

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EXAMINER
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ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/631,224	STEVENS, ALAN P.
	Examiner	Art Unit
	The Thanh Ho	2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 December 2003</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>02 August 2000</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)	4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5)☐ Notice of Informal Patent Application (PTO-152)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6)☐ Other: .

DETAILED ACTION

1. This action is in response to the amendment filed 12/19/2003.

2. Claims 1-21 have been examined and are pending in the application.

Drawings

3. The drawing (Fig. 3) is objected to because it is no longer a "Prior Art" based

on the communication filed on 12/19/2003. "Prior Art" indication within Fig. 3 needs to

be deleted. A proposed drawing correction or corrected drawings are required in reply

to the Office action to avoid abandonment of the application. The objection to the

drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because it contains an embedded hyperlink

and/or other form of browser-executable code: pages 7-8, 10, 18-19, 25 and 29.

Applicant is required to delete the embedded hyperlink and/or other form of browser-

executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 10-11 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Klemm U.S Patent No. 6,457,142.

As to claim 1, Klemm teaches an apparatus for providing application execution data (JAS transmits the thread and target application program status, line 32-33 column 11) to a profiling agent (to the remote manager, lines 33-34 column 11) on a remote system (remote manager 205 resides on a different machine, line 67 column 11 to line 1 column 12) as requested by said agent (the remote manager request status information on the target application program, lines 9-11 column 2), wherein a first application (Java Virtual Machine 208, Fig. 2) generates said application execution data (the thread and target application program status, line 32-33 column 11) comprising receiving a request (the remote manager request status information on the target application program, lines 9-11 column 2) via a network interface (remote manager and JAS communicate via TCP/IP, line 67 column 11 to line 2 column 12) from the profiling agent (remote manager, lines 33-34 column 11) for the data (the thread and target application program status, line 32-33 column 11); requesting (JVMPI 212 communicates with Java Virtual Machine 208, Gig. 2) the data (the thread and target application program status, line 32-33 column 11) from the first application (Java Virtual Machine 208, Fig. 2) via a local interface (JVMJI 212, Fig. 2); receiving (the events are being notified to the supervisor agent 202 via JVMJI 212, lines 28-30) the data (the thread and target application

program status, line 32-33 column 11) from the first application (Java Virtual Machine

208, Fig. 2) via the local interface (JVMJI 212, Fig. 2); transmitting the data to the

profiling agent (the supervisor agent 202 sends signals to the remote manager 205,

lines 35-45 column 15) JAS transmits the thread and target application program status

to the remote manager, line 32-34 column 11) via the network interface (remote

manager and JAS communicate via TCP/IP, line 67 column 11 to line 2 column 12).

As to claim 10, Klemm further teaches the local interface is a Java virtual

machine profiling interface (Java Virtual Machine Profiler Interface JVMJI 212, Fig. 2),

the first application is a java virtual machine (Java Virtual Machine 208, Fig. 2), a

second application (Java Application 210, Fig. 2) executes on top of the first application

(Java Virtual Machine 208, Fig. 2) and causes the first application to generate the data

(the thread and target application program status, line 32-33 column 11).

As to claims 11 and 20, they are method claims of claims 1 and 10,

respectively. Therefore, they are rejected for the same reasons as claims 1 and 10

above.

As to claim 21, it is a computer program product claim of claim 1. Therefore, it

is rejected for the same reasons as claim 1 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2-3, 5, 12-13 and 15 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Klemm in view of Guthrie U.S Patent No. 6,385,661.

As to claim 2, Klemm does not explicitly teach exposing all the functionality.

Guthrie teaches a client/server system (Fig. 1) in which a local interface's functionality

(interface and methods of subject object 18, lines 10-11 column 4) being exposed to an

agent (remote proxy object 22 has an interface and list of methods identical to subject

object 22, lines 9-11 column 4) on a remote system (client 14, Fig. 1). It would have

been obvious to apply the teachings of Guthrie to the system of Klemm because the

agent can communicate with the interface locally.

As to claim 3, Klemm as modified further teaches the network interface (TCP/IP,

line 67 column 11 to line 2 column 12) allows receipt of controls from the profiling agent

(remote manager, lines 33-34 column 11) for controlling the operation of the apparatus

(the remote manager initiate target application program supervision actions on its own,

lines 9-12 column 2).

As to claim 5, Klemm as modified further teaches the controls are transmitted

over a first connection (the remote manager initiate target application program

supervision actions, lines 9-12 column 2), and the data over a second connection

(TCP/IP, line 67 column 11 to line 2 column 12).

As to claims 12-13 and 15, they are method claims of claims 2-3 and 5,

respectively. Therefore, they are rejected for the same reasons as claims 2-3 and 5

above.

7. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Klemm in view of Guthrie, and further in view of Doucette U.S Patent No.

6,356,559.

As to claim 4, Klemm as modified does not explicitly teach switching between

synchronous and asynchronous transmission of the data. Doucette teaches a system

of data transmitting (Fig. 1) wherein the system can switch from transmitting

synchronous packets to transmitting asynchronous packets (lines 9-14 column 11). It

would have been obvious to apply the teachings of Doucette to the system of Klemm

because this allows the data to be transmitting to the agent within a timely fashion.

As to claim 14, it is a method claim of claim 4. Therefore, it is rejected for the

same reasons as claim 4 above.

8. Claims 6, 9, 16 and 19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Klemm in view of Doucette.

As to claim 6, Doucette further teaches a buffer for storing the data

(synchronous data in buffers, line 11 column 6). Note the discussion of claim 4 above

for the reasons of combining references.

As to claim 9, Doucette further teaches compressing the data (voice data

compression, line 45 column 9).

As to claims 16 and 19, they are method claims of claims 16 and 19, respectively. Therefore, they are rejected for the same reasons as claims 16 and 19 above.

9. Claims 7-8 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klemm in view of Doucette, and further in view of Swenson U.S Patent No. 6,574,675.

As to claim 7, Klemm as modified further teaches the application execution data comprises events (events, line 11 column 5). However, Klemm does not explicitly teach timestamp. Swenson teaches each event object contains timestamp (lines 29-30 column 10). It would have been obvious to apply the teachings of Swenson to the system of Klemm because this provides the completion time of the sent data; therefore, the sender of the data would be informed when the transmitted event was completed.

As to claim 8, Swenson further teaches the event is synchronous (synchronous communication interface, line 16 column 2), switching to synchronous transmission responsive to receipt of a synchronous event (lines 13-21 column 2).

As to claims 17-18, they are method claims of claims 7-8, respectively. Therefore, they are rejected for the same reasons as claims 7-8 above.

Response to Arguments

10. Applicant's arguments filed have been fully considered but are moot in view of the new ground(s) rejection.

Applicant's arguments presented issues which required the Examiner to further

view the previous rejection. The Examiner conducted a further search regarding the

issues mentioned in Applicant's response. Therefore, all arguments regarding the cited

references of the previous rejection are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to The Thanh Ho whose telephone number is 703-306-

5540. A voice mail service is also available for this number. The examiner can

normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-305-

3900.

Any response to this action should be mailed to:

Commissioner for Patents

P.O Box 1450

Alexandria, VA 22313-1450

Or fax to:

- AFTER-FINAL faxes must be signed and sent to (703) 746 – 7238

- OFFICAL faxes must be signed and sent to (703) 746 – 7239

- NON OFFICAL faxes should not be signed, please send to (703) 746 – 7240

TTH
March 11, 2004

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